

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

IRMA MARTINEZ,

Plaintiff,

v.

Civil Action No. 08-CV-00810

JEFFERSON N. CALIMLIM, ELNORA M.
CALIMLIM, JEFFERSON M. CALIMLIM,
CHRISTOPHER JACK CALIMLIM, CHRISTINA
CALIMLIM,

Defendants,

and

ATLANTIC MUTUAL INSURANCE COMPANY
CENTENNIAL INSURANCE COMPANY,
STATE FARM CASUALTY COMPANY,
ALLSTATE INSURANCE COMPANY,
ALLSTATE FLORIDIAN INSURANCE COMPANY
and WEST BEND MUTUAL INSURANCE COMPANY,

Intervening Defendants.

**INTERVENING DEFENDANTS ATLANTIC MUTUAL INSURANCE COMPANY'S AND
CENTENNIAL INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, Intervening Defendants, Atlantic Mutual Insurance Company and Centennial Insurance Company (herein the "Atlantic Companies"), by their attorneys, respectfully move the Court for the entry of summary judgment in their favor on the grounds that the complaint against Defendants Jefferson N. Calimlim, Elnora M. Calimlim, Jefferson M. Calimlim, Christopher Jack Calimlim, and Christina Calimlim (the "Defendants" or "Calimlims") in the instant matter (the "Complaint") does not allege an accident or "occurrence" as those terms are defined in the insurance policies issued to the Calimlims by the Atlantic Companies

(the "Policies") and therefore there is no coverage for the Plaintiff's claims. Additionally, the Complaint alleges conduct excluded from coverage under various exclusions within the Policies and thus, the Atlantic Companies have no duty to defend the Calimlims in this action. Moreover, given there is no duty to defend, the Atlantic Companies have no duty to indemnify the Calimlims as a matter of law. Thus, the Atlantic Companies are entitled to a declaration that there is no coverage under the Policies for the Plaintiff's claims against the Defendants.

In support of this motion, the Atlantic Companies have filed herewith their Memorandum in Support of their Motion for Summary Judgment and Proposed Findings of Fact.

Dated this 16th day of December, 2009.

MEISSNER TIERNEY FISHER & NICHOLS S.C.

By: /s/ Michael J. Cohen

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